

IC 8-21-12

Chapter 12. Airport Financing

IC 8-21-12-1

"Aircraft" defined

Sec. 1. As used in this chapter, "aircraft" means a vehicle used or designed for navigation or flight in the air.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-2

"Airport" defined

Sec. 2. As used in this chapter, "airport" means a location on land or water or a building or other structure that is used for the landing and taking off of aircraft, and that also provides for the shelter, supply, or care of aircraft, or a place used for receiving or discharging passengers or cargo by air.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-3

"Authority" defined

Sec. 3. As used in this chapter, "authority" means the transportation finance authority established under IC 8-9.5-8-2.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-4

"Aviation related property or facilities" defined

Sec. 4. (a) As used in this chapter, "aviation related property or facilities" means those properties or facilities that are utilized by a lessee, or a lessee's assigns, who provides services or accommodations:

- (1) for scheduled or unscheduled air carriers and air taxis, and their passengers, air cargo operations, and related ground transportation facilities;
- (2) for fixed based operations;
- (3) for general aviation or military users; and
- (4) as aviation maintenance and repair facilities.

(b) The term includes any property leased to the United States, or its agencies or instrumentalities, and any leased property identified as clear zones, aviation easements, or safety and transition areas, as defined by the Federal Aviation Administration.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-5

"District" defined

Sec. 5. As used in this chapter, "district" means an airport district established under section 11(9) of this chapter.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-6

"Landing area" defined

Sec. 6. As used in this chapter, "landing area" is that part of an airport or landing field designated and used for the landing or taking off of aircraft.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-7

"Landing field" defined

Sec. 7. As used in this chapter, "landing field" means a location on land or water or a building or other structure that is used for the landing and taking off of aircraft, but that provides no other facilities or services.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-8

"Loan contract" defined

Sec. 8. As used in this chapter, "loan contract" means a debt instrument other than a revenue bond, such as a note.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-9

"Local entity" defined

Sec. 9. As used in this chapter, "local entity" means a county, city, town, or other municipal corporation (as defined in IC 36-1-2-10).

As added by P.L.28-1991, SEC.2.

IC 8-21-12-10

"Person" defined

Sec. 10. As used in this chapter, "person" means:

- (1) an individual, partnership, firm, company, limited liability company, corporation, association, trust, or estate; or
- (2) the legal representative or agent of the individual or entity described in subdivision (1).

As added by P.L.28-1991, SEC.2. Amended by P.L.8-1993, SEC.151.

IC 8-21-12-11

Purpose

Sec. 11. The authority may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

- (1) To protect a district and all property owned or managed by the authority and, to carry out this subdivision, to employ special police or hire guards.
- (2) To incur indebtedness in the name of the authority in accordance with this chapter.
- (3) To adopt administrative procedures, rules, and regulations, including emergency rules under IC 4-22-2-37.1.
- (4) To:
 - (A) acquire real, personal, or mixed property by deed, purchase, lease, condemnation, or otherwise and dispose of it for use, in connection with, or for administrative purposes

- of the airport;
 - (B) receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out;
 - (C) receive and administer federal or state aid; and
 - (D) erect buildings or structures that may be needed to administer and carry out this chapter.
- (5) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.
- (6) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.
- (7) To purchase supplies, materials, equipment, and services to carry out the duties and functions of the authority, in accordance with procedures adopted by the authority.
- (8) To employ personnel that are necessary to carry out the duties, functions, and powers of the authority.
- (9) To:
- (A) acquire, establish, construct, improve, equip, maintain, control, lease, and regulate airports, landing fields, and other air navigation facilities;
 - (B) acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and
 - (C) erect, install, construct, and maintain at the airport or airport's facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public.
- The Indiana department of transportation must grant approval before land may be purchased or leased for the establishment of an airport or landing field and before an airport or landing field may be established and shall establish the boundaries of a district or districts from time to time.
- (10) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.
- (11) To employ or contract with an airport director, superintendents, managers, financial advisers, engineers, surveyors, bond counsel, disclosure counsel, and other attorneys, clerks, mechanics, laborers, and all employees the authority considers expedient, and to prescribe and assign the respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by the authority. Employees shall be selected irrespective of their political affiliations.
- (12) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of airports, landing fields, air navigation facilities, and other property within a district or otherwise under the authority's

control.

(13) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

(14) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by the authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the maintenance or servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding forty (40) years, and may be extended for similar terms of years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the authority, offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land owned or otherwise controlled by the authority, a lease may be entered into for a period not to exceed ninety-nine (99) years. The authority may not grant an exclusive right for the use of a landing area under the authority's jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the authority prescribes. The authority may lease property and facilities for any commercial or industrial use the authority considers necessary and proper, including the use of providing airport motel facilities.

(15) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the authority or in accordance with an applicable trust agreement.

(16) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the authority's control and operation in accordance with the terms and conditions the authority may determine.

(17) To vacate all or parts of roads, highways, streets, or alleys within a district.

(18) To approve any state, county, city, or other highway, road, street, or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in

such proximity as to affect the safe operation of the airport.

(19) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the authority may negotiate with the departments, bodies, and officers of a local entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The authority must consent before any franchise may be granted by state authorities or local entities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through a district or within a reasonable distance of the district that is necessary for the safety of operation. The authority must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(20) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

(21) To provide air transportation in furtherance of the duties and responsibilities of the authority.

(22) To promote or encourage aviation related trade or commerce at the airports that it operates.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-12

Recovery of damages

Sec. 12. The authority may take action to recover damages for the breach of an agreement, expressed or implied, relating to the operation, control, leasing, management, or improvement of the property under the authority's control, to impose the penalties for the violation of resolutions or of the authority's rules or regulations, and for injury to the personal or real property under the authority's

control, and to recover possession of any such property.
As added by P.L.28-1991, SEC.2.

IC 8-21-12-13

Zoning restrictions

Sec. 13. (a) To provide free air space for the safe descent and ascent of aircraft and for the proper and safe use of an airport or landing field acquired or maintained under this chapter, the authority may establish by resolution or resolutions a restricted zone or zones of a distance in any direction from the boundaries of the district so that no building or other structure is erected high enough to interfere with the descent of an aircraft at an approach angle necessary for safety for the usual type of operation that is conducted at the airport or landing field.

(b) The authority may acquire by condemnation or purchase, upon the payment of due compensation, the right to prevent the erection of, and to require the removal of, all buildings, towers, poles, wires, cables, other structures, and trees within the zone that interfere with the gliding angle or as much of any structure or trees that interfere with the gliding angles. When a restricted zone or zones has been established, a permit issued by a department or office of a local entity or by any state or other authority for the erection of any structure extending into a zone is effective only if approved by the authority. Establishment of a restricted zone outside of a district, in connection with the condemnation of the rights in the land, constitutes condemnation and the perpetual annihilation of all rights of the owners of the property within the zone to erect or maintain any building or structure that will interfere with the gliding angle. This result may be accomplished by absolute condemnation of the land, with perpetual and irrevocable free license to use and occupy the land within the zone for all purposes except the erection of buildings or other structures above the height so prescribed.

(c) The part of a restricted zone that extends below fifty (50) feet measured vertically from the land may be established only by purchase or proceedings in eminent domain. That part of a restricted zone that is at least fifty (50) feet above the surface of the land is in effect immediately upon the adoption by the authority of zoning rules. However, the owners of land beneath a restricted zone have the right to recover damages that may be proven in an action brought for that purpose. In an action for damages, the owner has the burden of proving damage by reason of the establishment of the restricted zone.

(d) The zoning jurisdiction granted in this section is exclusive against jurisdiction granted by any other statute unless the other statute specifically provides otherwise. In case of conflict with any airport zoning or other regulations promulgated by a local entity, the zoning rules adopted under this section prevail.

(e) All zoning rules adopted under this chapter must be reasonable and may not impose a requirement or restriction that is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations to adopt, the authority shall consider,

among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable. However, this section does not apply to the location, relocation, erection, construction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures on lands owned by a public utility or railroad.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-14

Eminent domain; public utility property

Sec. 14. (a) The authority may exercise the power of eminent domain to carry out this chapter and may award damages to landowners for real estate and property rights appropriated. If the authority cannot agree with the owners, lessees, or occupants of real estate selected by the authority for the purposes in this chapter, the authority may procure the condemnation of the property. The authority may proceed under IC 32-24-1. IC 32-24-1 applies to airports, landing fields, districts, and restricted zones adjoining them to the extent that IC 32-24-1 is not inconsistent with this chapter.

(b) If:

(1) it is necessary to establish and fix a restricted zone on and across land that:

(A) is already in use for another public purpose; or

(B) has been condemned or appropriated for a use authorized by statute; and

(2) the land is being used for that purpose by the corporation so appropriating it;

the public use or prior condemnation does not bar the right of the authority to condemn the use of ground for aviation purposes. Use by the authority does not permanently prevent the use of the land for the prior public use or by the corporation condemning or appropriating it.

(c) The authority may not take or disturb property or facilities belonging to a public utility or common carrier engaged in interstate commerce if the property or facilities are required for the proper and convenient operation of the utility or carrier, unless provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere, at the sole cost of the authority.

As added by P.L.28-1991, SEC.2. Amended by P.L.2-2002, SEC.45.

IC 8-21-12-15

Finances of authority; bonds

Sec. 15. (a) The authority may:

(1) finance improvements related to an airport or aviation related property or facilities, including the acquisition of real estate;

(2) refund any bonds; or

(3) pay any loan contract;

by borrowing money and issuing revenue bonds from time to time under this section.

(b) The issuance of revenue bonds must be authorized by a resolution of the authority.

(c) The bonds or the trust agreement securing the bonds must indicate:

- (1) the maturity date or dates;
- (2) the interest rate or rates (whether fixed, variable, or a combination of fixed or variable) or the manner in which the interest rate or rates will be determined if a variable or an adjustable rate is used;
- (3) the registration privileges and the place of payment;
- (4) the conditions and terms under which the bonds may be redeemed or prepaid before maturity; and
- (5) the source of payment.

(d) The bonds must be executed in the name of the authority by the chairman or vice chairman of the authority and attested by the secretary-treasurer, and interest coupons may be executed by placing on the interest coupons the facsimile signature of the chairman or vice chairman of the authority. The bonds are valid and binding obligations of the authority for all purposes, notwithstanding that before delivery of the bonds any of the persons whose signatures appear on the bonds have ceased to be officers of the authority, as if the persons had continued to be officers of the authority until after delivery. The validity of the authorization and issuance of the bonds is not dependent on or affected in any way by proceedings taken for the improvement for which the bonds are to be issued, or by contracts made in connection with the improvement. A resolution authorizing revenue bonds must provide that a revenue bond contain a recital that the bond is issued under this chapter, and a bond containing the recital under authority of a resolution is considered valid and issued in conformity with this chapter.

(e) At the discretion of the authority, the revenue bonds shall be sold either under the procedures for selling public bonds or at a negotiated sale with such terms as are consistent with the provisions of the resolution authorizing the sale. The resolution may delegate to the chairman or the secretary-treasurer the authority to conduct the sale. The bonds may be sold in installments at different times, or an entire issue or series may be sold or exchanged at one (1) time. Any issue or series of the bond may be sold in part or sold in part in installments at different times or at one (1) time.

(f) The bonds are special obligations of the authority and are payable solely from and secured by a lien upon the revenues of all or part of the facilities of the authority, as shall be more fully described in the resolution of the authority or trust agreement authorizing the issuance of the bonds, and, subject to the constitution and to the prior or superior rights of any person, the authority may by resolution pledge and assign for the security of the bonds all or part of the gross or net revenues of the authority and the authority's facilities.

(g) The bonds and interest on the bonds are not a debt of the

authority, nor a charge, a lien, or an encumbrance, legal or equitable, upon property of the authority, or upon income, receipts, or revenues of the authority other than those revenues of the facilities that have been pledged to the payment of the bonds. Every bond must recite in substance that the bond, including interest, is payable solely from the revenues pledged to the bond's payment, and that the authority is under no obligation to pay the bond, except from those revenues.

(h) The bonds, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds for value.

(i) The proceeds of the bonds are appropriated for the purpose for which the bonds may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds.

(j) All bonds issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds, the interest on the bonds, the proceeds received by an owner from the sale of the bonds to the extent of the owner's cost of acquisition, the proceeds received upon redemption before maturity, the proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5.

(k) Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds issued under this chapter.

(l) Bonds issued under this chapter are exempt from the registration requirements of IC 23-2-1 and any other state securities registration statutes.

(m) The authority may obtain from a department or agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of the interest or principal, or any debt service reserve funds, on bonds issued by the authority, or on securities purchased or held by the authority.

(n) The authority may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds issued by the authority, or for any debt service reserves securing any bonds, with terms that are reasonable and proper, in the discretion of the authority, and not in violation of law.

(o) The authority may enter into agreements or contracts with any financial institution as may be necessary, desirable, or convenient in the opinion of the authority for rendering services in connection with:

- (1) the care, custody, or safekeeping of securities or other investments held or owned by the authority;
- (2) the payment or collection of amounts payable as to principal

or interest; and

(3) the delivery to the authority of securities or other investments purchased or sold by it.

The authority may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of the authority's securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the authority, is necessary or desirable.

(p) In the discretion of the authority, any bonds issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a cotrustee, which may be any trust company or bank in Indiana or another state.

(q) The trust agreement or the resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds as may be reasonable and proper, in the discretion of the authority, and not in violation of law.

(r) Any trust agreement or resolution may contain other provisions that the authority considers reasonable and proper for the security of the owners of bonds.

(s) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or from any other funds available to the authority.

(t) Funds or money held by the authority under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.

(u) Refunding or refunding and improvement revenue bonds may be issued in accordance with the provisions for the refinancing or refinancing and improving of any of the facilities for which revenue bonds or a loan contract have been issued or made under this section or section 16 of this chapter.

(v) This section constitutes full authority for the issuance of revenue bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the authority, by a board, an officer, a commission, a department, an agency, or an instrumentality of the state, or by an eligible entity is required to issue revenue bonds or to do any act or perform anything under this chapter, except as presented by this chapter. The powers conferred by this chapter are in addition to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred in another section of this chapter or by any other statute.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-16

Loans to the authority

Sec. 16. The authority may negotiate terms and borrow money

from any source under a loan contract, subject to the following requirements:

- (1) The loan contract must be approved by resolution of the authority.
- (2) The loan contract must provide for the repayment of the loan in not more than forty (40) years.
- (3) The loan contract must state that the indebtedness is that of the authority, is payable solely from revenues of the authority that are derived from either airport operations or from revenue bonds, and may not be paid by a tax levied on property located within the state.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-17

Loan contracts; tax exemptions

Sec. 17. Any loan contract issued under this chapter is issued by a body corporate and politic of this state, but not a state agency, and for essential public and governmental purposes. A loan contract, the interest on it, the proceeds received by a holder from the sale of a loan contract to the extent of the holder's cost of acquisition, the proceeds received upon redemption before maturity, the proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-18

Officers and employees; bonds; surety

Sec. 18. The authority may require a bond from any of the officers or employees of the authority in an amount, upon terms and conditions, and with surety that the authority designates.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-19

Airports and landing fields; establishment; tax exemption

Sec. 19. (a) The acquisition, establishment, construction, improvement, equipment, maintenance, control, and operation of airports and landing fields for aircraft under this chapter is a governmental function of general public necessity and benefit, and is for the use and general welfare of all the people of the state.

(b) Notwithstanding any other statute, the leasehold estate of any lessee created pursuant to a lease by the authority of the authority's aviation related property or facilities, together with any permanent structure erected on the property by the lessee is exempt from property taxation.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-20

Bonds; issuance by fiscal bodies of local entities

Sec. 20. Whenever the fiscal body of a local entity determines that the public interest of the local entity will be served by assisting the

authority in executing the powers granted by this chapter, the local entity may furnish assistance by gift, or lease with or without rental, of real property, by donation, lease with or without rental, or loan, of personal property, and by the appropriation of money that may be provided for by taxation or the issuance of bonds in the same manner as funds might be provided for the same purpose if the local entity was exercising the powers granted in the local entity's own behalf.
As added by P.L.28-1991, SEC.2.

IC 8-21-12-21

Airports and other navigation facilities; receipt of funds; grants

Sec. 21. (a) The authority may accept, receive, and receipt for federal, other public, or private money for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, other air navigation facilities, and sites for them, and comply with federal laws made for the expenditure of federal money upon airports and other air navigation facilities.

(b) Subject to IC 8-21-8, the authority has exclusive power to submit to the proper state and federal agencies applications for grants of funds for airport development and to make or execute representations, assurances, and contracts, to enter into covenants and agreements with a state or a federal agency relative to the development of an airport, and to comply with all federal and state laws pertaining to the acquisition, development, operation, and administration of airports and properties by the authority.

As added by P.L.28-1991, SEC.2.